

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shevani Patel	Team: Team # 5	CCRB Case #: 201206180	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/11/2012 7:00 AM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 11/11/2013	EO SOL 11/11/2013	
Date/Time CV Reported Sat, 05/12/2012 2:22 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 05/12/2012 2:22 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Edward Babington	00000	932283	063 PCT
2. An officer			E S U
3. Officers			E S U

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Thomas Longa	07623	919315	E S U

Officer(s)	Allegation	Investigator Recommendation
A.LT Edward Babington	Abuse: Lt. Edward Babington supervised the entry and search of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
C. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
D. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(b)

Case Summary

On May 11, 2012, § 87(2)(b) filed the following complaint with IAB, where it received log-number 12-26065 (encl. 2A). On May 14, 2012, IAB referred the complaint to the CCRB. On May 12, 2012, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System (encl. 3A-B).

On May 11, 2012, at approximately 7:00 a.m., approximately twenty officers executed a search warrant at § 87(2)(b)'s residence, located at § 87(2)(b) in Brooklyn. The following allegations resulted:

- **Allegation A – Abuse of Authority:** Lt. Edward Babington supervised the entry and search of § 87(2)(b) in Brooklyn. § 87(2)(g)
- **Allegation B – Discourtesy:** An officer spoke rudely to § 87(2)(b) and § 87(2)(b) § 87(2)(g)
- **Allegation C – Abuse of Authority:** An officer threatened § 87(2)(b) with the use of force.
- **Allegation D – Abuse of Authority:** An officer damaged § 87(2)(b)'s property. § 87(2)(g)

§ 87(2)(b) alleged that after he was released from custody, he discovered that he was missing property from his apartment. § 87(2)(g)

This case was reassigned to Investigator Shevani Patel on July 31, 2012, following Investigator Jihan Varisco's departure from the agency.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b)-old black male, is 6'1", weighs 220 pounds and has black hair and brown eyes. § 87(2)(b)

Statement to IAB

On May 11, 2012, § 87(2)(b) provided a statement to IAB via telephone (encl. 2A). He stated that on May 11, 2012, at approximately 6:00 a.m., approximately twenty officers from ESU forcibly took down his door. An officer told him to "get on the fucking ground" and "I'm going to fucking kill you." § 87(2)(b) was handcuffed.

CCRB Testimony

On May 21, 2012, § 87(2)(b) provided a telephone statement (encl. 2D) and on June 20, 2012, he was interviewed at the CCRB (encl. 2E-I). § 87(2)(g)

On May 11, 2012, at approximately 7:00 a.m., § 87(2)(b) was watching television in his living room at § 87(2)(b) in Brooklyn when he heard banging on his door. His door was broken open with a battering ram. Approximately twenty uniformed ESU officers and three plainclothes officers entered § 87(2)(b)'s apartment, holding rifles, shotguns, handguns and

flashlights. The officers were wearing masks, so § 87(2)(b) was unable to see their faces. An officer yelled, “Anybody in the house?” § 87(2)(b) entered the room with his hands in the air. The officers had their guns pointed at § 87(2)(b). During his interview, § 87(2)(b) stated that one of the officers said, “Get on the fucking ground. I’ll kill you motherfucker.” However, during his telephone statement, § 87(2)(b) stated that an officer told him, “Get on the fucking ground.” § 87(2)(b) lay down on the ground and officers pulled his hands behind his back and handcuffed him.

§ 87(2)(b)’s neighbors came out of their apartments to see what was happening. § 87(2)(b) heard an ESU officer tell his neighbor, § 87(2)(b) “Get the fuck back inside.” The neighbors complied.

§ 87(2)(b) was escorted to a marked police van, where he waited for approximately three hours. An officer, who § 87(2)(b) identified by name as Lt. Edward Babington, told § 87(2)(b) that an individual claimed that § 87(2)(b) had a silver revolver. § 87(2)(b) denied this. Lt. Babington then told § 87(2)(b) that he would be issued a summons for a bag of marijuana that was found under his couch. Lt. Babington also told § 87(2)(b) that an air pistol was recovered in § 87(2)(b)’s safe. § 87(2)(b) signed a piece of paper, stating that he was surrendering the air pistol to the police.

§ 87(2)(b) was taken back into his apartment and was issued two summonses. § 87(2)(b)’s roof and the second floor of his apartment had been damaged by Hurricane Irene. The damage was not completely repaired, and the officers reopened the hole on the second floor. § 87(2)(b) also noted that his mattress, bed frame, computer monitor, television, basketball, washing machine, chairs and his front door had been damaged. He also realized that he was missing five thousand dollars in cash, electronic equipment, two computer hard-drives and a watch from his safe.

Civilians Not Interviewed

§ 87(2)(b) stated that his neighbor, § 87(2)(b) walked into the building’s hallway during the execution of the search warrant. § 87(2)(g)

NYPD Statement:

Witness Officer: DETECTIVE THOMAS LONGA

- *Det. Longa, a § 87(2)(b)-old white male, is 6’1”, weighs 220 pounds and has brown hair and brown eyes. On May 11, 2012, Det. Longa worked from 4:00 a.m. to 2:35 p.m. He worked in uniform and was assigned to the ESU apprehension team.*

Memo Book:

At 6:30 a.m., Det. Longa noted a tactical meeting at the 67th Precinct and a search warrant execution for the 67th Precinct’s field intelligence officer (encl. 3A-B).

CCRB Testimony

On January 25, 2013, Det. Longa was interviewed at the CCRB (encl. 3C-D). His interview is summarized below.

Det. Longa did not have an independent recollection of the incident. During the interview, Det. Longa provided the undersigned with information based on a review of the ESU warrant execution supplemental report. On May 11, 2012, at approximately 6:30 a.m., Det. Longa executed a search warrant at § 87(2)(b) § 87(2)(b) as a member of the ESU tactical entry team. He was assigned to the lead ballistic shield. He was the first officer to enter the location. His face and half of his torso were covered by a four foot by two and a half foot shield in front of his face. The entire team was wearing a blue utility uniform with black armor. Det. Longa did not recall if he was wearing a mask on the incident date. Det. Vlad Green entered behind him. The ESU supervisor on scene was Sgt. Thomas Glaudino. When presented with a photograph of § 87(2)(b) Det. Longa stated that he did not recognize the individual in the photograph.

Det. Longa did not recall telling any individual in the apartment, "I'm going to kill you, motherfucker," or to "get the fuck back inside." He did not use any profanity during the incident and did not recall hearing any other officer use profanity.

Officers Not Interviewed

§ 87(2)(g)

NYPD Documents

Search Warrant

Search warrant § 87(2)(b) authorized the NYPD to immediately enter and search § 87(2)(b) § in Brooklyn. It was requested by Det. Gregory Jean-Baptiste of the 67th Precinct. It was obtained on § 87(2)(b), and was signed by the Honorable Judge § 87(2)(b) of Kings Country Criminal Court. The search warrant was executed on May 11, 2012 by Lt. Babington. The warrant targeted firearms, ammunition and evidence of ownership or occupancy of premises (encl. 4A).

Pre-Execution Search Warrant Plan

The pre-execution search warrant plan indicated that the entry into the location was made by ESU and that officers of the 67th Precinct maintained the perimeter. Lt. Babington was the search supervisor and Det. Jean-Baptiste was the arresting officer (encl. 4B-C).

Emergency Services Unit Warrant Execution Supplemental Report

The ESU warrant execution supplemental report indicated that a § 87(2)(b)-old black male was handcuffed in the living room (encl. 4D-G).

Post-Execution Search Warrant Plan

The post-execution search warrant plan noted that one C31 Crossman air pistol and one ziplock bag of marijuana were found in the living room. The plan also reported that the search warrant was executed with the assistance of the ESU apprehension team. The premises door was already damaged and held closed by a chain and metal pole. The premises was in complete disarray with extensive water damage and garbage, which § 87(2)(b) stated was from Hurricane Irene and that he was going to be moving. Due to the recovered air pistol and marijuana found, § 87(2)(b) was issued two C-Summonses and allowed to return to the home without being taken to the stationhouse (encl. 4H).

Summonses

Det. Jean-Baptiste issued § 87(2)(b) summons § 87(2)(b) for § 87(2)(b) and summons #§ 87(2)(b) for § 87(2)(b) (encl. 4I-J).

Property Vouchers

Det. Jean-Baptiste prepared property voucher numbers § 87(2)(b) and § 87(2)(b) which lists that § 87(2)(b) was in possession of an air pistol and marijuana. This property was seized as arrest evidence (encl. 4K-O).

Field Test Report

Det. Jean-Baptiste field tested the alleged marijuana, and the results were positive (encl. 4P).

Summons for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 28, 2013 with regard to the incident.

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 1B).

Subject Officer CCRB History

- Lt. Babington has been a member of the service for nine years and there are four substantiated CCRB allegations against him (encl. 1A).
 - In CCRB case number 200715224, an entry and search allegation was substantiated against Lt. Babington, for which he received no disciplinary action.
 - In CCRB case number 200815654, an entry and search allegation was substantiated against Lt. Babington, for which he received Command Discipline B. Additionally, property damage and property seizure allegations were substantiated against him, for which he received no disciplinary action.

Conclusion

Identification of Subject Officers

- Lt. Babington was identified as the supervisor for the execution of search warrant § 87(2)(b) § 87(2)(g)
- § 87(2)(b) stated that he could not describe the ESU officer who told him, “Get on the fucking ground. I’ll kill you motherfucker,” because the officer’s face was covered. Additionally, he was unable to see the officer who told § 87(2)(b) “Get the fuck back inside.” He was also unable to identify the officer who damaged his property because he was inside of the police van as the officers searched his home. § 87(2)(g)

Allegations Not Pleaded

- § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Lt. Babington supervised the entry and search of § 87(2)(b) in Brooklyn.

§ 87(2)(g)

Allegation B – An officer spoke rudely to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) stated that an ESU officer, who he could not describe because his face was covered, told him, “Get on the fucking ground.” Additionally, § 87(2)(b) alleged that an officer, who he could not see, told § 87(2)(b) to “get the fuck back inside,” after she exited her own apartment and began to approach § 87(2)(b)’s apartment. Det. Longa did not recall making either of these statements or hearing any other officers use profanity.

In NYPD v. Ebanks, OATH Index No. 76079/00 (encl. 0A-AA), the court held that the use of profanity in highly stressful situations is not a disciplinary offense.

§ 87(2)(g)

Allegation C – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that an ESU officer, who he could not describe because his face was covered, told him, “I’m going to kill you motherfucker.” Det. Longa did not recall making this statement or hearing any other officer say that. § 87(2)(g)

Allegation D – Abuse of Authority: Officers damaged § 87(2)(b)’s property.

§ 87(2)(b) stated that upon returning to his apartment, he observed damage to his mattress, bed frame, computer monitor, television, basketball, washing machine, chairs and front door. He also stated that a hole on the wall of the second floor of his apartment had re-opened, following damage due to a hurricane. As noted above, § 87(2)(b) did not witness the officers damage his property and was therefore unable to identify the subject officers. § 87(2)(g)

Team: 5

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date